



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Hutchinson Sealing Systems, Incorporated
171 Route 85
P.O. Box 169
Newfields, NH 03856

ADMINISTRATIVE ORDER
BY CONSENT
No. ARD 04-001

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Air Resources Division to, and with the consent of, Hutchinson Sealing Systems, Incorporated, pursuant to RSA 125-C:15. This Administrative Order by Consent is effective upon signature by both parties.

B. PARTIES

1. The Department of Environmental Services, Air Resources Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. Hutchinson Sealing Systems, Incorporated, ("Hutchinson") is a Delaware Corporation registered to do business in New Hampshire with a mailing address of 171 Route 85, P.O. Box 169, Newfields, NH 03856-0169, ("the Facility").

C. STATEMENT OF FACTS AND LAW

1. RSA 125-C authorizes DES to regulate sources of air pollution. RSA 125-C:4 authorizes the Commissioner of DES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Pursuant to this authority, the Commissioner has adopted NH Admin. Rules Env-A 100 *et seq.*
2. Hutchinson was formerly known as The Kingston-Warren Corporation, ("Kingston") a wholly-owned subsidiary of Harvard Industries, Inc., having a corporate mailing address of 3 Werner Way, Lebanon, NJ 08833. On September 23, 1999, DES was notified by the KWC Acquisition Corporation ("KWC"), that on or about September 30, 1999, KWC would become the owner of the Facility and that the Facility would change its name to Hutchinson.
3. Hutchinson is engaged in the production of sealing strips and soft rubber glass-run channels which are designed for use in automotive and various other applications. The sealing strips and soft rubber glass-run channels are produced by several processes involving metal roll forming, rubber and plastic extruding, flocking (or the application of a low-friction coating) and curing. Secondary operations include but are not limited to: trimming, notching, saw cutting, stretch bending, molding, and assembly. An adhesive is applied to the sealing strips and soft rubber glass-run channels, allowing for the bonding of the materials.
4. 40 CFR 60 Subpart TT *Standards of Performance for Metal Coil Surface Coating* ("Subpart TT"), applies to metal surface coating operations which apply a prime coat, finish coat and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously.

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5. On September 14, 1993, DES issued a Temporary Permit No. TP-BP-455 ("TP-BP-455") to Kingston with an expiration date of March 13, 1995. The temporary permit was issued for a production line operated by Kingston and known as the Body Stock Prep Metal Coil Coating line ("BSP"). The BSP process used a unique two-part coating to prepare the metal substrate for subsequent adhesion to molded rubber. The process was not performed to produce a decorative or corrosive resistant product. In this process, Kingston used adhesive coatings, Chemlok 208 and Chemlok 237A.
6. Subpart TT and Condition 5 of TP-BP-455 required compliance with a volatile organic compound ("VOC") emission rate of 0.28 kg VOC/liter (2.33 lbs VOC/gallon) of coating solids, as applied, for each calendar month for each affected facility that does not use an emission control device(s).
7. Subpart TT requires facilities to either meet the emission rate in Subpart TT or to install a pollution control device. Kingston did not install a pollution control device on the BSP line.
8. Env-A 1204.14(a) (effective 8-31-95), applies to sources whose metal coil coating operation has a combined total potential to emit 10 tons of VOCs, or greater, during any consecutive 12-month period after December 31, 1989.
9. Env-A 1204.14(c) (effective 8-31-95), provides that a source applying a coating onto a metal coil substrate shall be limited at all times to an emission rate of 0.31 kg VOC/liter (2.6 lb VOC/gallon) of coating, as applied, excluding water and exempt compounds.
10. Env-A 1204.15(a) (effective 8-31-95), formerly Env-A 1204.09 (effective 11-15-92 to 8-31-95), applies to sources whose miscellaneous metal parts and product coating operations have a combined total potential to emit 10 tons of VOCs or greater during any consecutive 12-month period after December 31, 1989.
11. Env-A 1204.15(c)(2) (effective 8-31-95), formerly Env-A 1204.09(c)(2) (effective 11-15-92 to 8-31-95), provides that miscellaneous metal parts and products coating shall be limited at all times to an emission rate of 0.42 kg VOC/liter (3.5 lbs VOC/gallon) of coating as applied, excluding water and exempt compounds.
12. Env-A 1204, VOC Reasonably Available Control Technology ("RACT") requires sources with combined theoretical potential emissions that equal or exceeded 50 tons per year and are subject to one of the source categories to comply with the applicable emission rate set forth in that part. Env-A 1204 required sources subject to the rule to be in compliance by May 31, 1995.
13. On November 22, 1994, DES issued Kingston State Permits to Operate No. PO-BP-1838, PO-BP-1389, PO-BP-1840 and PO-BP-1841, with an expiration date of April 30, 1996. The permits were issued for the design and manufacturing of a proprietary line of gravity-flow material storage rack and electronic order-picking systems ("King-Way systems" or "King-Way line") for warehouses and distribution centers. In producing King-Way systems and components Kingston utilized, in part, a metal parts painting process subject to the requirements of Env-A 1204.15.
14. On November 22, 1994, DES issued State Permits to Operate No. PO-BP-2324, PO-BP-2325, PO-BP-2326, PO-BP-2484, PO-BP-2546, and PO-BP-2547 to Kingston for the production of sealing strips and soft rubber glass-run channels manufactured at the Facility. These permits expired on April 30, 1996.
15. On May 24, 1996, Kingston submitted a letter requesting that DES evaluate the applicability of Subpart TT to the BSP process. In its letter, Kingston cited several reasons why the BSP process should be exempt from the provisions of Subpart TT.

16. On June 19, 1995, DES received a VOC RACT Compliance Plan ("the Plan") from Roy F. Weston, Inc., on behalf of Kingston. The Plan stated that in calendar year 1994, Kingston's VOC emissions were 82.36 tons. The Plan also stated that the coatings being used on the BSP line, the King-Way line, and sealing strips and soft rubber glass-run channel lines exceeded the applicable emission limits in Subpart TT and Env-A 1204.15. The Plan described control options available in order to meet the applicable limits.
17. Env-A 101.168 defines a major source as, among other things, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant ("HAP"), which has been listed pursuant to Section 112(b) of the Act, 25 tons per year or more of any combination of such HAPs, or any source with the potential to emit VOCs in the quantity of 50 tons per year or more.
18. Env-A 609.01(a) and Env-A 607.01(q) (effective 12-13-95) require sources to submit a permit application, on or before June 30, 1996, for a Title V permit or a State Permit to Operate limiting potential emissions, if the facility's potential emissions exceed the major source threshold as defined in Env-A 101.
19. On June 26, 1996, DES sent a letter to the United States Environmental Protection Agency, Region I requesting assistance in exempting Kingston from the requirements of Subpart TT.
20. On July 1, 1996, and in accordance with Env-A 609, Kingston filed with DES an application for a Title V permit.
21. On December 22, 1997, DES received a permit application from Hutchinson for operation of a low friction coating line, plastic coating line and for modifications. On April 15, 1998, DES issued Temporary Permit No. FP-T-0014 to Kingston for these operations, with an expiration date of October 31, 1999.
22. Env-A 3000 (effective 1-21-97), allows for the generation of emission reduction credits ("ERCs") by reducing emissions through shutdown.
23. Env-A 3006.09 (effective 1-21-97), states that ERCs generated by a source cannot be aggregated each year for use in any other calendar years. Therefore, on May 4th of each year, Hutchinson generates 22 tons of ERCs from the shutdown of the King-Way line. Regardless of the number of ERCs remaining on May 3rd of the following year, those ERCs cannot be banked for future use.
24. Env-A 3100 (effective 1-21-97), allows for the use of discrete emission reductions ("DERs"), for compliance with VOC RACT.
25. On April 28, 1998, and in accordance with Env-A 1204.05 (effective 8-31-95), DES issued Kingston a draft VOC RACT Order No. (ARD-98-002). The draft Order allowed Kingston to achieve compliance and mitigate excess VOC emissions from the King-Way line, BSP line and sealing strips rubber glass-run channels line by purchasing DERs.
26. On May 4, 1998, Kingston shutdown the King-Way line and the equipment was sold to an entity located in Atlanta, Georgia.
27. On June 30, 1998, in accordance with Env-A 3006.10, Kingston filed with DES a "Notice of ERC Generation". In the Notice of ERC Generation, Kingston stated that surplus reductions generated by shutting down the King-Way line were 22 tons of VOCs per year.

28. In December 1998, Kingston submitted a DER Quantification Report to DES. The report stated that the coatings used on the BSP line exceeded Subpart TT and TP-BP-455 coating limitation of 2.33 lb VOC/gallon of coating solids as applied. The Quantification Report also listed various steps that Kingston had taken to reduce the Facility's VOC emissions, such as shutting down the King-Way line. Further, the Quantification Report stated that the number of credits needed to offset excess VOC emissions from the BSP line from the period of October 1, 1993 through May 31, 1998, were 46.52 tons.
29. The DER Quantification Report further stated that from June 1, 1995 through May 31, 1998, VOC emissions from the King-Way line were 33.5 tons and excess VOC emissions were 2.9 tons, and that combined excess VOC emissions from the BSP, King-Way, and Extrusion operation were 57.76 tons.
30. On February 26, 1999, DES received a permit application for reissuance of Temporary Permit No. FP-T-0014 for operations of a low friction coating line, plastic coating line and for modifications.
31. On March 29, 1999, DES received EPA's comments on proposed VOC RACT Order. In the letter, EPA states, among other things, that the BSP process can not comply with NSPS through the use of DERs or ERCs. On June 11, 1999, DES received additional comments from EPA stating that the BSP process is subject to Subpart TT.
32. On October 26, 1999, DES reissued Temporary Permit No. FP-T-0014 to Hutchinson for operation of a low friction coating line, plastic coating line and for modifications.
33. On March 20, 2000, DES received notice from Hutchinson that it shutdown the BSP line on September 1, 1999. Hutchinson also included updated information on emissions from the BSP line. Hutchinson reported that from October 1, 1993 through May 31, 2000, actual VOC emissions from the BSP line were 53.96 tons and excess VOC emissions were 50.4 tons.
34. Condition 5(d) of TP-BP-455 limits VOC emissions to 15.4 tons during any consecutive 12-month period.
35. The March 20, 2000 notice reported that from June 1, 1995 through May 31, 1996, actual emissions from the BSP line were 19 tons.
36. On October 10, 2000, DES conducted a compliance inspection at Hutchinson and confirmed that the BSP line was not operating and that the unit was being disassembled.
37. On December 24, 2001, Hutchinson withdrew its application for a Title V permit as a result of decreased VOC emissions resulting from the shutdown of the BSP and King-Way lines. By shutting down the BSP and the King-Way lines, Hutchinson's reduced its potential VOC emissions to less than 50 tons per year.
38. On August 1, 2002, DES issued to Hutchinson a "*Certificate of Emissions Reductions Credits Generation*," with certain conditions, for 9 tons of ozone season ERCs and 13 tons of non-ozone season ERCs that were generated by the shutdown of the King-Way line.
39. On August 8, 2002, DES issued Hutchinson a final VOC RACT Order No. ARD 01-002 ("the RACT Order").
40. The RACT Order requires Hutchinson to cease operations of the following: the BSP line, and the Metal Parts Painting Operation. In addition, the RACT Order requires the miscellaneous metal parts operation to comply with an emission rate of 0.42kg VOC/l (3.5 lb VOC/gallon) of coating as applied, and plant-wide cleaning solvents not to exceed 5 tons per year of VOC emissions. Lastly, the RACT Order allows Hutchinson to use DERs or ERCs for the purpose of complying with the requirements of the RACT Order.

41. Section E of the RACT Order required Hutchinson to satisfy VOC RACT violations by acquiring 44 DERs to offset excess VOC emissions for the period of June 1, 1995 through May 31, 1998.
42. The RACT Order also required Hutchinson to satisfy the VOC RACT violations by using DERs or ERCs to offset excess VOC emissions for the period of June 1, 1998 through May 31, 2002.
43. On November 6, 2002, DES received Notice and Certification of Use of DERs pursuant to the RACT Order to mitigate excess VOC emissions for the period of June 1, 1995 through May 31, 1998. In the Notice, Hutchinson informed DES that it transferred and retired 20 tons ozone season DERs (serial number 98NPSNH01C) and 24 tons non-ozone DERs (serial number 98NPSH01C).
44. In the submittal, Hutchinson also included Notices and Certifications of Use of Self-Generated ERCs pursuant to the RACT Order, to mitigate excess VOC emissions for the period of June 1, 1998 through May 31, 2002.
45. On November 12, 2002, DES received revised Notices and Certifications of Use of Self-Generated ERCs pursuant to the RACT Order, to mitigate excess VOC emissions for the period of June 1, 1998 through May 31, 2002. The Notices stated that Hutchinson used ozone season and non-ozone season ERCs as follows:
- From 1998 through 1999 Hutchinson retired 2 tons of ozone season ERCs and 4 tons of non-ozone season ERCs;
 - From 1999 through 2000 Hutchinson retired 2 tons of ozone season ERCs and 2 tons of non-ozone season ERCs;
 - From 2000 through 2001 Hutchinson retired 2 tons of ozone season ERCs and 2 tons of non-ozone season ERCs; and
 - From 2001 through 2002, Hutchinson retired 2 tons of ozone season ERCs and 2 tons of non-ozone season ERCs.
46. On August 29, 2003, DES received a Notice and Certification of Use of Self-Generated ERCs pursuant to the RACT Order, to mitigate excess VOC emissions for the period of June 1, 2002 through May 31, 2003. The Notice stated that Hutchinson used 0.87 tons of ozone season ERCs (serial number 98VHSS01C) and 1.34 tons of non-ozone season ERCs (serial number 98VHSS01C).
47. While the RACT Order addressed compliance with VOC RACT requirements, it did not address Hutchinson's non-compliance and resulting excess VOC emissions with Subpart TT for the period of October 1, 1993 through September 1, 1999 from the BSP line. DES has determined that during that period, that Hutchinson emitted 18.9 tons of excess VOC emissions from the BSP line. DES is requiring that Hutchinson, in accordance with Env-A 3104.06, use an additional ten percent of all DERs or ERCs for environmental contribution by dividing the number of DERs or ERCs needed by 0.9. Therefore, Hutchinson must use 21 tons of DERs or ERCs.

D. DETERMINATION OF VIOLATIONS

1. Hutchinson violated Subpart TT and Condition 5(a) of TP-BP-455 from October 1, 1993 through September 1, 1999 by failing to comply with the emission limit of 0.28 kg VOC/liter (2.33 lbs/gallon) of coating solids as applied.
2. Hutchinson violated Condition 5(d) of TP-BP-455 by exceeding the annual VOC emission limitation of 15.4 tons during any consecutive 12-month period. From June 1, 1995 through May 31, 1996, Hutchinson's VOC emissions from the BSP line were 19 tons.

E. ORDER

Based on the above findings, for failing to comply with New Source Performance Standards 40 CFR 60 Subpart TT, DES hereby orders Hutchinson, and Hutchinson agrees, to undertake and complete the following actions in accordance with the time schedules specified herein:

1. To resolve the violations alleged in Section D above, Hutchinson shall acquire DERs or ERCs on the open market or shall use self-generated ERCs in accordance with Env-A 3000 and Env-A 3100 and in accordance with Hutchinson's June 30, 1998 Notice of ERC Generation and the accompanying protocols dated January 27, 1999 and June 7, 1999. Hutchinson shall use 9 tons of ozone season DERs or ERCs and use 12 tons of non-ozone season DERs or ERCs as follows:

- a. **By April 30, 2004**, Hutchinson shall use (pursuant to Env-A 3104.09), 7 tons of ozone season DERs or ERCs;
- b. **By April 30, 2004**, Hutchinson shall use (pursuant to Env-A 3104.09), 10 tons of non-ozone season DERs or ERCs;

By June 4, 2004, Hutchinson shall use (pursuant to Env-A 3104.09), 2 tons of ozone season DERs or ERCs; and

- d. **By June 4, 2004**, Hutchinson shall use (pursuant to Env-A 3104.09), 2 tons of non-ozone season DERs or ERCs.

2. Hutchinson shall submit to the Division a Notice and Certification of Use that contains the information in Env-A 3104.09(d), within 30 days of the use dates identified in Paragraph E.1.a. through d. above as follows:

Joe Fontaine, Trading Programs Manager
NHDES Air Resources Division
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Telephone No.: (603) 271-6794
Fax No.: (603) 271-7053


3. Hutchinson shall send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Mary A. Ruel, Enforcement Section Supervisor
Compliance Bureau
NHDES Air Resources Division
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Telephone No.: (603) 271-6795
Fax No.: (603) 271-7053

F. CONSENT AND WAIVER OF APPEAL


1. By execution of this Administrative Order by Consent, Hutchinson agrees that this Order shall apply to and be binding upon signature by Hutchinson, its officers, directors, successors, and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Hutchinson waives any right to appeal this Administrative Order by Consent provided by statute, rule or common law, including without limitation the right to appeal to the Air Resources Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction. Hutchinson shall not challenge the validity of the violations alleged herein in the context of any future proceeding by DES assessing the compliance history of Hutchinson and alleging violations of the New Hampshire Code of Administrative Rules enumerated herein, or in any proceeding before DES to enforce this agreement. Other than such enforcement action, DES shall pursue no further administrative action against Hutchinson relative to the allegations contained herein.
3. Except as described in Paragraph D.2 above, this Administrative Order by Consent shall not constitute, be construed as, or operate as: (i) an admission of evidence of liability by Hutchinson; (ii) an admission by Hutchinson or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of and defense Hutchinson might raise in any subsequent or third party proceeding.
4. No failure by DES to enforce any provision of this Administrative Order by Consent after any breach or default shall be deemed a waiver of its rights with regards to that breach or default, nor shall such failure be construed as a waiver of the right to enforce each and all of the provisions of this agreement on any further breach or default.
5. The effective date of this Administrative Order by Consent shall be the date on which it is signed by an authorized representative of Hutchinson, the Director of the Air Resources Division and the Commissioner of DES.

HUTCHINSON SEALING SYSTEMS INC.


By: R.T. NADEAU - PLANT MGR
Duly Authorized

4/18/04
Date

NH DEPARTMENT OF ENVIRONMENTAL SERVICES


Robert R. Scott, Director
Air Resources Division

4-18-04
Date


Michael P. Nolin, Commissioner
Department of Environmental Services

4/15/04
Date

cc: M. Harbaugh, DES Legal Unit
Public Information Officer, DES PIP Office
R. Kurowski, EPA Region I
M. Smith, NH AGO
D. Dwyer, Newfields Chairman Board of Selectmen
File AFS# 3301500046